



THE CITY OF SAN DIEGO **MANAGER'S REPORT**

DATE ISSUED: March 21, 2001 REPORT NO. 01-056

ATTENTION: Committee on Land Use and Housing
Agenda of March 28, 2001

SUBJECT: Proposed Third Update to the Land Development Code (LDC)

SUMMARY

Issues -

1. Should City Council approve the proposed minor format and reference corrections to the Land Development Code?
2. Should the City Council approve the proposed consistency corrections to the Land Development Code?

Managers Recommendations -

1. Recommend that the City Council approve the proposed minor format and reference corrections to the Land Development Code.
2. Recommend that the City Council approve the proposed consistency corrections to the Land Development Code.

Planning Commission Recommendations - On February 15, 2001, the Planning Commission voted unanimously to recommend approval of staff's recommendation on all of the minor format and reference corrections and all of the consistency corrections, with the exception of the proposed modification to Section 113.0234(a)(6) which was continued for further discussion.

Code Monitoring Team - On February 14, 2001 the Code Monitoring Team voted unanimously to approve all of the minor format and reference corrections and all of the consistency corrections, with the exception of an amendment to Section 113.0234(a)(6) relating to the inclusion of parking structures in gross floor area. The Code Monitoring Team voted 8-3 to oppose this issue.

Environmental Impact - Action on the minor format and reference corrections, and the consistency corrections, are exempt from CEQA pursuant to the State Guidelines Section 15061(b)(3).

Fiscal Impact - None.

BACKGROUND

In 1997 the City Council directed staff to implement a Code Monitoring Program that includes updates to the Land Development Code (LDC). The first update, adopted by the City Council on June 19, 2000, included fifty minor format and reference corrections, as well as three substantive issues. Two of the substantive issues, amendments to the Single Room Occupancy regulations and brush management regulations, were continued by the Planning Commission for additional review. These issues have not yet been rescheduled. These items will proceed to City Council for consideration once the Planning Commission has completed its deliberations. The second update addressed twenty-two minor issues, and five substantive issues that included amendments to: the telecommunication facility regulations; floodplain regulations; subdivision procedures for final maps; the Carmel Valley Planned District Ordinance and the Transit Area Overlay Zones. The second update was adopted by the City Council on December 12, 2000. Staff submitted these updates to the California Coastal Commission in December 2000. To date, no California Coastal Commission hearing has been scheduled. It may be several months before this item is heard. Staff will keep the City Council apprised of our progress.

DISCUSSION

This report contains the third update to the Land Development Code (LDC) which addresses additional issues that were identified by staff and the public during the first year of implementation. Minor format and reference corrections constitute the majority of issues in this update. Consistency corrections include issues requiring interpretation and revisions to implement the regulations as originally intended. On February 15, 2001, the Planning Commission continued one consistency issue (the inclusion of parking structures in gross floor area calculations) for further discussion. This item will be brought forward to the City Council with a future LDC update as appropriate. Discussions of the remaining issues in this update are included in the following pages under separate headings. Attachment 1 provides a summary of all of the issues in a matrix format, Attachment 2 contains draft strikeout/underline language for the minor format and reference corrections and Attachment 3 contains draft strikeout/underline language for consistency corrections.

1. Minor Format and Reference Corrections

Minor format and reference corrections include thirty-seven typographical errors, simple clarifications, and reference errors. For example, terms that are defined in Chapter 11 are supposed to be italicized throughout the LDC, however, in certain sections, a defined term such as "Child Care Facilities" was inadvertently not italicized. The proposed correction would simply amend this minor format error by italicizing the term. Another example includes amending Chapter 14, Article 5, Division 4 of the LDC to correct references to reflect updated editions of the 1998 California Building Code (CBC) and the 1997 Uniform

Code for Building Conservation (UCBC). The proposed changes would bring the references to tables and sections up to date and correct typographical errors in this section.

2. Consistency Corrections

Amendments to seven items are proposed to correct inconsistencies in the regulations, clarify confusing aspects of the regulations, or to correct provisions that have created unintended consequences during the first year of implementation of the LDC. A brief discussion of each of these six items is continued on the following pages.

- a. Exemptions from a Coastal Development Permit - The LDC currently contains provisions for exemptions from a Coastal Development Permit under certain circumstances. However, the LDC exemptions do not include all of the exemptions that the California Coastal Commission Regulations allow. The California Coastal Commission Regulations include a number of exemptions for small accessory structures, such as garages, carports, swimming pools, etc., that are not referenced in the LDC. For example, an applicant wishing to construct a garage on a premise containing an existing single dwelling unit, is required to apply for a Coastal Development Permit under the LDC. However, the same development would be exempt from obtaining a Coastal Development Permit per the California Coastal Commission Regulations. The proposed amendment would direct the applicant to the California Coastal Commission Regulations for the additional exemptions.
- b. Previously Conforming Premises and Uses - The LDC staff has received numerous comments that the table for Previously Conforming Premises and Uses in the LDC is confusing. Currently, one table contains the three categories of previous conformity (structures, density, and use), including their review processes and necessary permits. If more than one previously conforming category is applicable to a development proposal, the table does not clearly convey the need to implement all applicable regulations. In an effort to alleviate confusion, this amendment proposes to reformat Table 127-01A (Review Process for Previously Conforming Premises and Uses), as well as the associated text. Individual tables have been created for each previously conforming category (structures, density, and use), that separately identify the necessary permits. Additional language has been added to clarify that when multiple categories of previous conformity are applicable to a development proposal, the regulations for all previously conforming categories will be required.
- c. A Change in Use of a Previously Conforming Use - Section 127.0107(b) of the LDC states that within the Coastal Overlay Zone any change of a previously conforming use to another use that involves intensification of that use, negates the previously conforming rights of the new use. However, the meaning of the term “intensification of use” is not addressed in this section. Section 126.0704(a)(3) states that the term intensification of use means a change in use requiring more off-street parking than the most recent legal use on the property. The proposed amendment would add the same

language that appears in Section 126.0704(a)(3) to Section 127.0107(b) to clarify the meaning of intensification of use within the Coastal Overlay Zone.

- d. Bond Requirement for Construction Permit for Grading - As identified in the LDC, any work performed under a Grading Permit requires a bond. Chapter 12, Article 9 of the LDC contains provisions for bonding up to estimated grading costs of \$50,000, however, bonding amounts are not included for estimated grading costs over \$50,000. Although not cited in Chapter 12 of the LDC, Chapter 6, Article 2 of the Municipal Code does include the bonding requirement for estimated grading costs over \$50,000. The proposed reformat would move the applicable language from Section 62.0112(c)(3) into Section 129.0119(a)(6)(c) of the LDC, and repeal Section 62.0112(c)(3). This amendment would establish consistency and eliminate duplicative language.
- e. Setback Requirements in Residential Zones - The LDC contains an exception allowing a side setback of 4 feet for RM-2-4, RM-2-5 and RM-2-6 zoned lots that are 40 to 50 feet in width. However, an exception for lots less than 40 feet in width, does not exist in these zones, as it does in other residential zones. As a result, lots 39 feet in width or less in these zones would be subject to the standard side setback of 5 feet or 10 percent of the width of the lot, whichever is greater. The proposed revision would include language providing an exception for lots less than 40 feet in width by allowing a minimum setback of 10 percent of lot width, but not less than 3 feet.
- f. Homeless Facilities - The LDC homeless facilities regulations do not allow any institution or organization to provide emergency shelter to the homeless on a temporary basis. This amendment would permit emergency shelters, which are accessory uses to religious institutions or religious organizations, to operate for 30 days or less in a calendar year and exempt them from the homeless facilities regulations in Section 141.0412.

CONCLUSION

Development Services recommends approval of the proposed third update issues which include minor format and reference corrections and consistency corrections as described in Attachment 1, Attachment 2 and Attachment 3.

ALTERNATIVES

1. Modify the recommendations proposed for the minor format and reference corrections and consistency corrections.
2. Deny the minor format and reference corrections and consistency corrections.

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved by: George I. Loveland
Senior Deputy City Manager

LMJ/DGL

- Attachments:
1. Third Update Issues Matrix
 2. Draft strikeout/underline language for the minor format and reference corrections.
 3. Draft strikeout/underline language for the consistency corrections.